

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

**RECEIVED**

- - - - -  
NORMAN NEAL,

Plaintiff,

JAN 13 1983

v.

Civil Action No.

FIBREBOARD CORPORATION, et al.,

Defendants.

TY-79-11-CA

- - - - -  
NELL S. STEWART,

Plaintiff,

Civil Action No.

v.

TY-79-36-CA

FIBREBOARD CORPORATION, et al.,

Defendants.

- - - - -  
BOBBY KINDLE,

Plaintiff,

Civil Action No.

v.

FIBREBOARD CORPORATION, et al.,

TY-79-35-CA

Defendants.

Washington, D. C.

Friday, August 13, 1982

FRIEDLI, WOLFF & PASTORE, INC.  
1735 EYE STREET, N.W. SUITE #811  
WASHINGTON, D.C. 20006

PHONES: 331-1981  
331-1982

1                   Deposition of

2                   BARRY CASTLEMAN,

3                   a witness in the matter, called for examination by counsel for  
4                   the Defendant, Raybestos-Manhattan, pursuant to notice, at  
5                   the law offices of Frederick M. Baron & Associates, 1717 N  
6                   Street, N. W., Washington, D. C. beginning at 10:00 a.m.,  
7                   before Deidre A. Hake, Notary Public in and for the District  
8                   of Columbia, when the parties were represented by the following  
9                   counsel:

10

11

12

13

14

15

16

17

18

19

20

21

22

1                   For the Plaintiffs:

2                   FREDERICK M. BARON & ASSOCIATES  
3                   By:

4                   BRIAN D. WEINSTEIN, Esq.  
5                   8333 Douglas Avenue  
6                   Suite 1400  
7                   Dallas, Texas 75225

8                   For the Defendant, Raybestos-Manhattan:

9                   VIAL, HAMILTON, KOCH, TUBB, KNOX & STRADLEY  
10                  By:

11                  RICHARD A. SHORE, Esq.  
12                  1500 Republic Bank Tower  
13                  Dallas, Texas 75201

14                  For the Defendant, Eagle-Picher Industries, Inc.:

15                  SASSCER, CLAGETT, CHANNING & BUCHER  
16                  By:

17                  JAMES R. BUCHER, Esq.  
18                  Upper Marlboro, Maryland 20870

19                  - - -

20                  C O N T E N T S

| 21 <u>Witness:</u>                  | 22 <u>Examination by:</u>      | 23 <u>Page:</u>            |
|-------------------------------------|--------------------------------|----------------------------|
| 24                  Barry Castleman | 25                  Mr. Shore  | 26                  6, 83  |
| 27                                  | 28                  Mr. Bucher | 29                  68, 88 |

1                   E X H I B I T S2                   MARKED FOR  
3                   IDENTIFICATION4                   Defendants' Exhibits:

|       |   |    |
|-------|---|----|
| No. 1 | - copy of the witness's resume  | 8  |
| No. 2 | - copy of the witness's resume listing consulting activities                              | 13 |
| No. 3 | - list of articles dealing with asbestos disease furnished by the witness                 | 41 |
| No. 4 | - copy of an article in The Industrial Bulletin, dated 1934, from the Library of Congress | 71 |
| No. 5 | - copy of case record of Massachusetts General from Dr. Wagoner                           | 71 |

12                   - - -

13

14

15

16

17

18

19

20

21

22

1                   Whereupon,

2                   BARRY CASTLEMAN,

3                   a witness herein, having been called by counsel  
4                   for the defendant, Raybestos-Manhattan and,  
5                   having been duly sworn by the notary, was ex-  
6                   amined and testified as follows:

7                   MR. WEINSTEIN: At the outset, Dick, Barry's fee  
8                   for this is \$750. No problem; right?

9                   MR. SHORE: Obviously not.

10                  MR. WEINSTEIN: Okay.

11                  MR. BUCHER: I can't speak for my client.

12                  MR. SHORE: We are agreeing to reserve objections  
13                  until the time of trial as to substance. Are you going to  
14                  make objections as to form now or reserve those?

15                  MR. WEINSTEIN: Whatever you want.

16                  MR. BUCHER: Reserve everything.

17                  MR. WEINSTEIN: Reserve everything.

18                  MR. SHORE: Live signature?

19                  MR. WEINSTEIN: Do you want to see the deposition?

20                  THE WITNESS: No.

21                  MR. WEINSTEIN: Okay. We will waive signature.

22                  MR. SHORE: And it can be used for all purposes

1 prior to trial, for any motions once it's transcribed, and at  
2 trial?

3 MR. WEINSTEIN: So agreed.

4 MR. SHORE: Also this is taken in the Stewart,  
5 Kindle and Neal cases.

6 MR. WEINSTEIN: Yes.

7 MR. SHORE: Okay.

8 BY MR. SHORE:

9 Q State your full name, sir.

10 A Barry R. Castleman.

11 Q Mr. Castleman, my name is Dick Shore and I  
12 represent one of the defendants in some asbestos suits that  
13 have been filed down in Texas and are coming up for trial at  
14 the end of this month. You understand that although we are  
15 in an informal setting here it is just as if you were testi-  
16 fying before a judge and jury?

17 A Yes.

18 Q You do understand that you are under oath?

19 A Yes.

20 Q I would like to strike a deal with you, if I could,  
21 and that is that if at any time you don't understand one of  
22 my questions or don't hear me, you will ask me to repeat it

1 or rephrase it and I will do so. Otherwise, I will assume  
2 that you understood my question and your answer was in rela-  
3 tion to that question. Okay?

4 A Yes.

5 Q I assume you have given several depositions  
6 before; right?

7 A Yes, I have.

8 Q And you understand that you are going to have to  
9 speak out "yes" or "no." You can't shake your head.

10 A Yes, sir.

11 Q All right.

12 Q Mr. Castleman, what is your address, please?

13 A 1722 Linden Avenue. That's L-i-n-d-e-n.

14 Baltimore, Maryland. Zip Code 21217.

15 Q By whom are you employed, sir?

16 A Self-employed.

17 Q Do you go by any association name or is it just  
18 Barry Castleman?

19 A Just my name, and I call myself an environmental  
20 consultant.

21 Q Mr. Castleman, did you bring a resume with you  
22 today?

1 A Yes, I did.

2 Q Could I see that, please?

3 A Certainly.

4 (Document handed to counsel.)

5 MR. SHORE: Would you mark this, please?

6 (Defendants' Exhibit No. 1  
7 is marked for identifica-  
8 tion and attached to the  
9 deposition original.)

10 BY MR. SHORE:

11 Q Mr. Castleman, have you been retained to testify  
12 in certain asbestos lawsuits in Texas by Mr. Fred Baron?

13 A Yes.

14 Q Which lawsuits have you been retained to testify in?  
15 A Mr. Baron pays me an annual retainer, and I don't  
16 know which lawsuits in particular he has listed me in.

17 Q Okay. How much is that annual retainer?

18 A \$750.

19 Q All right. Do you charge him per case work done  
20 in addition to your retainer?

21 A Only if I have to do some work on a case.

22 A Has he asked you to do any work on any cases in  
Texas, in particular, the Norman Neal case, the Bobby L. Kindle

1 case, or the Nell, N-e-l-l Stewart case?

2 A No. The first I heard of these cases was this  
3 morning at today's deposition which I understand you are calling.

4 Q Yes.

5 A That was my first acquaintance with these cases.

6 Q All right.

7 Mr. Castleman, Mr. Baron has listed you as a  
8 witness in the pretrial order which was filed with the court  
9 in regard to these cases filed Monday of this week, and this  
10 is the first you have been apprised that you might testify  
11 in those?

12 A Oh, no. I was called last week some time when this  
13 deposition was scheduled.

14 Q And --

15 A And at that time I wasn't apprised of any of the  
16 details of these specific cases.

17 Q Who called you?

18 A Mr. Baron.

19 Q What did he ask you to do?

20 A He said that some attorneys in Texas wanted to  
21 take my deposition in a case in which he was involved and  
22 would I be available on Friday --

1 Q Okay.

2 A -- of this week, and I said yes.

3 Q Did he tell you why we wanted to take your  
4 deposition?

5 A I think he said it was the usual, the usual thing.  
6 I have been deposed at least six or eight times in the past.

7 Q We will get into that in a minute.

8 Q Do you intend to come down and testify in those  
9 cases?

10 A If necessary; yes. If the cases go to trial and  
11 my services are requested.

12 Q But at this point in time he has not asked you  
13 to come testify in those?

14 A No. It's generally not done until an actual  
15 trial is scheduled and the schedule of the trial starts firm-  
16 ing itself up and he knows exactly what day he is going to  
17 need me.

18 Q So as far as you know right now you are not  
19 scheduled to go down there and testify?

20 A I don't have an appointment to do so; no.

21 Q Okay.

22 Q What is your fee for testifying at trial?

1           A     \$750 per day up to seven-and-a-half hours. That's  
2       the same for trial and deposition. If it's more than seven-  
3       and-a-half hours it's charged at \$100 an hour.

4           Q     All right.

5           A     Plus expenses.

6           Q     Okay. How long have you been on retainer with  
7       Mr. Baron?

8           A     I guess a couple of years now.

9           Q     In 1980 you started it?

10          A     I think so. I didn't originally charge a re-  
11       tainer and after awhile I started doing that.

12          Q     Let me rephrase my question. How long have you  
13       been associated with Mr. Baron in assisting him with his  
14       asbestos cases?

15          A     I suppose it goes back to some time in 1978. The  
16       first deposition was in March of '79.

17          Q     Okay. How many times have you testified on behalf  
18       of Mr. Baron?

19          A     I have no idea. I could guess.

20          Q     Give me a ballpark figure.

21          MR. WEINSTEIN: You mean trial or deposition?

22          MR. SHORE: Either.

1                   THE WITNESS: Maybe six times, trial and deposi-  
2 tions combined. Something like that.

3                   MR. SHORE: All right, sir.

4                   BY MR. SHORE:

5                   Q     Have you ever testified in any other cases besides  
6 Mr. Baron's cases in regards to asbestos?

7                   A     Yes, I have.

8                   Q     Okay. Approximately how many times?

9                   A     Maybe an equal number of times.

10                  Q     About six other cases?

11                  A     Yes. Well, about six other times; trials and  
12 depositions.

13                  Q     Beginning back in what year? Starting in what year?

14                  A     The earliest one was in March of '79.

15                  Q     Were all of those cases where you testified on  
16 behalf of the plaintiff?

17                  A     Yes.

18                  Q     You have never testified on behalf of any defendant  
19 in an asbestos case; correct?

20                  A     That's correct.

21                  Q     Okay.

22                  What is an environmental consultant?

1           A     It's a -- It's a phrase which I chose to very  
2 vaguely characterize what it was that I do. My work for the  
3 past seven years has been in the area of toxic substances  
4 control as an independent consultant.

5 MR. SHORE: Would you mark that, please?

6 (Defendants' Exhibit No. 2  
7 is marked for identifica-  
tion and attached to the  
deposition original.)

(Document handed to witness.)

BY MR. SHORE:

Q You say you chose the term environmental consultant  
to vaguely characterize what you do?

A. Yes.

Q. It just sounds good?

15           A     Well, I didn't really know what else to call myself,  
16               but obviously the term is a very nonspecific term. It  
17               could describe somebody whose specialty is in waste water and  
18               sewage treatment. It could describe someone who is a specialist  
19               in air pollution control, so on and so forth.

20 Q But you don't testify on sewage treatment or air  
21 pollution control; do you?

22 A No, I don't.

1 Defendants' Exhibit Number 2 and ask you if you can identify  
2 that, sir?

3 (Document handed to witness.)

4 THE WITNESS: This is a one-page summary of my  
5 consulting activities through, it looks like 1979 or 1980.

6 BY MR. SHORE:

7 Q There under your education where it has your MSE  
8 in environmental engineering from Johns Hopkins, that should  
9 actually be 1972. That's when you actually got your degree?

10 A Yes. I was told that the -- that all the require-  
11 ments had been fulfilled by October-something in '71, and that  
12 the degree wouldn't be formally awarded until May --

13 Q Okay.

14 A -- of the next year.

15 Q Okay.

16 Have you done any postgraduate work besides  
17 receiving your master's from Johns Hopkins?

18 A Yes. I am currently a doctoral candidate in the  
19 school of hygiene and public health of Johns Hopkins again.

20 Q When do you expect to receive your PhD?

21 A The degree will be called an ScD, doctor of  
22 science I think that means -- probably in two years or so

1 from now.

2 Q In 1984?

3 A Yes.

4 Q When did you begin working on that?

5 A A year ago.

6 Q Okay. What does a doctor of science degree con-  
7 vey upon you from this school of hygiene and public health?  
8 What area is that in?

9 A Well, I am taking -- It's really up to me and my  
10 advisor and, of course, this all has to be in accord with  
11 the requirements of the university, but my interests are in  
12 occupational and environmental health science and policy.  
13 And so I am taking courses along these lines.

14 Q Are you taking any courses in asbestos-related  
15 diseases?

16 A Asbestos had come up. I am taking courses in  
17 toxicology and epidemiology and so on.

18 Q All right, sir. What about your degree, your  
19 master's degree in environmental engineering? What did that  
20 entail?

21 A I took a bunch of courses which rounded out my  
22 training in chemical engineering so that I would be equipped

1 to do air pollution control work and so I took courses in  
2 such things as air pollution control; equipment -- courses on  
3 the equipment that is used in air pollution control; courses  
4 on laboratory measurement of air pollutants; courses on epi-  
5 demiology and statistics and probability and meteorology.

6 Q Any courses related to asbestos or asbestos-  
7 related diseases?

8 A I took a course on inhaled particles in the  
9 respiratory tract and I wrote my master's thesis on the subject  
10 of asbestos disease.

11 Q Okay, sir.

12 Any other type of formal education besides the  
13 three you have mentioned?

14 A No.

15 I have attended a lot of scientific conferences,  
16 but I gather that is not what you mean by "formal education."

17 Q Right.

18 What type of work did you do once you got your  
19 undergraduate degree in '68?

20 A I went to work for a chemical company called  
21 Hercules.

22 Q How long were you with them?

1 Q How long were you with them?

2 A A little more than a year.

3 Q What did you do for them?

4 A I was a -- I guess you could call me a process  
5 development engineer. I was working at either new processes  
6 or -- Well, they were all new processes. Some of them were  
7 new products that the company's research center was turning  
8 out, and other preparations which I supervised dealt with  
9 modifications of manufacturing of products that they had been  
10 manufacturing before, but they were tinkering with the way  
11 they made the stuff.

12 Q Was that from '68 to '69?

13 A Yes.

14 Q Did you have any involvement with asbestos during  
15 that time?

16 A Not that I can recall.

17 Q All right, sir.

18 Where did you go to work after that?

19 A You mean my next employment?

20 Q That's right.

21 A That was after I got out of graduate school and  
22 I went to work for the Baltimore County Department of Health,

1 Division of Air Pollution and Industrial Hygiene.

2 Q In 1972?

3 A Yes.

4 Q What did you do for them?

5 A I dealt with the compliance activities in regard  
6 to industrial air pollution and handled special projects  
7 dealing with toxic chemicals investigations.

8 Q What types of toxic chemicals?

9 A Oh, there was one situation where a child had  
10 gotten aplastic anemia shortly after a school building was  
11 caulked.

12 Q Did you deal with asbestos?

13 A Yes, I did. On my own I initiated trips to the  
14 local brewery, the local distillery to see if they were using  
15 asbestos filters, and also a notice went out to people who  
16 were doing brake servicing warning about the dangers of  
17 breathing asbestos dust and advising safe work practices.

18 Q That was in '72?

19 A Yes.

20 Q Okay, sir.

21 After that, by whom were you employed?

22 A I worked for the Center for Science in the Public

1 Interest, in Washington, D. C.

2 Q That was in 1973?

3 A '73; yes.

4 Q Until what year?

5 A Until some time in '74.

6 Q What did you do for them?

7 A I was involved in activities, writing about energy  
8 consumption and various activities that people do and, also,  
9 we started to get involved with vinyl chloride air pollution  
10 at that time. I had some involvement in problems with aerosol  
11 sprays.

12 Q Anything dealing with asbestos?

13 A And quite a few things dealing with asbestos.

14 Q Such as?

15 A There was a petition sent to the Environmental  
16 Protection Agency in December of 1973 which I drafted which  
17 basically asked the administrator of the Environmental Pro-  
18 tection Agency to stop the continuing use of asbestos cement  
19 pipes being installed in water supply distribution systems.

20 I attended the National Institute for Environ-  
21 mental Health Sciences meeting on biological effects of  
22 ingested asbestos in November of 1973, and I was following

1 up on a petition which we had drafted to the Food and Drug  
2 Administration dealing with the filtration of foods and drugs  
3 with asbestos and the contamination resulting therefrom.

4 Q. Okay.

5 A. And there were other things. I just can't recall  
6 them now.

7 Q. All of your education in regard to asbestos which  
8 enabled you to do some of the things you just mentioned, has  
9 that been sort of a self-taught type thing?

10 A. I have been taught by some of the best people  
11 around. I have had the good fortune to spend a lot of time  
12 talking to people like Irving Selikoff, Gerrit Schepers and  
13 Wilhelm Hueper, and these people have all contributed to  
14 my education. And, of course, I have had to spend a lot of  
15 time reading.

16 Q. Okay.

17 You left the Center for Science in the Public  
18 Interest in Washington in December of 1974?

19 A. Yes.

20 Q. What did you do after that?

21 A. I went to work for the Maryland Public Interest  
22 Research Group which was a student funded organization at

1           the University of Maryland.

2           Q     How long were you there?

3           A     About eight months.

4           Q     So you came and left in 1974?

5           A     I came in '74 and left in '75.

6           Q     What did you do for them?

7           A     I supervised various projects that the students  
8         were interested in, and initiated others of my own.

9           Q     Anything dealing with asbestos?

10          A     Yes. I was looking into the possibility that  
11         asbestos manufacturing was being exported to countries where  
12         there were no regulations to protect the workers or the people  
13         who lived near the factories.

14          Q     Okay.

15          A     And statistics indicating that we were suddenly  
16         becoming dependent on Mexico, Venezuela, Brazil and Taiwan  
17         for imports of asbestos textiles were published by me in  
18         a report.

19          Q     What was the name of that report?

20          A     Something like, The Flight of Hazardous Industries  
21         to Unregulating Countries.

22          Q     All right, sir. What did you do after you left

1 the Public Interest Research Group?

2 A I printed up some business cards and stationery  
3 and declared my independence.

4 Q As an environmental consultant?

5 A Yes.

6 Q That was in 1975?

7 A Yes.

8 Q And you have been so employed since then?

9 A That's right.

10 Q Okay. And going over your employment history  
11 since you graduated from Johns Hopkins with your undergraduate  
12 degree, have we left out anything?

13 A I'm sorry. I didn't hear the question. Would  
14 you read it back?

15 MR. SHORE: I'll repeat it.

16 In covering your employment history here today  
17 since you graduated from Johns Hopkins University with your  
18 undergraduate degree, have we left out anything?

19 THE WITNESS: No; not that I can recall.

20 MR. SHORE: All right, sir.

21 BY MR. SHORE:

22 Q You published or are the co-author of a

1 publication entitled "Asbestos and You." Correct?

2 A Yes.

3 Q And your co-author was Albert J. Fritsch?

4 A Yes.

5 Q What was your involvement in putting that together?

6 A I was the principal author.

7 Q Was it mainly from an informational gathering  
8 standpoint as far as articles, et cetera, on your part?

9 A I'm not sure I understand your question.

10 Q Well, you said you were the principal author.

11 What were your contributions to this work?

12 A I did most of the research and writing that went  
13 into it.

14 Q Okay. Was that based partly on your thesis, your  
15 master's thesis?

16 A Yes.

17 Q What did your master's thesis involve?

18 A The master's thesis was a review of the literature  
19 on asbestos disease and an attempt to appraise the situation  
20 as it existed in 1971.

21 Q Okay. What were you attempting to appraise?

22 A Well, this was mainly an educational exercise

1 for me. I wanted to just wade into the medical literature  
2 and see just how bad was this asbestos.

3 At that time they were spraying it on buildings  
4 and it was falling like snow on the streets of Baltimore,  
5 and I had read a paper or two indicating that this stuff  
6 causes lung cancer and it seemed kind of strange to me that  
7 such a practice would be followed, much less permitted.

8 Q You had no training, so to speak, which enabled  
9 you to perform an expert evaluation of the subject; did you,  
10 sir?

11 A Well, I believe I have since performed an expert  
12 evaluation, but at that time I was very new to reading things  
13 like medical articles and I found them somewhat difficult at  
14 first; yes.

15 Q All right, sir. So your evaluation in your thesis  
16 was basically just your own personal observation and writing  
17 your own personal evaluation from what you read; right?

18 A It was my best attempt to evaluate what the  
19 literature said.

20 Q Okay. And the same thing with "Asbestos and You"  
21 in 1973?

22 A Yes. "Asbestos and You" was a little different

1 because it wasn't written with the same constraints that you  
2 have with a thesis, and so with "Asbestos and You," we  
3 expressed more opinions.

4 Q You were allowed to involve yourself in more  
5 speculation I assume then.

6 A You might call it that.

7 Q All right.

8 While we are on your publications, in Exhibit  
9 Number 1 that you have handed me you have a list of the  
10 principal publications and there are a few in here that do  
11 deal with asbestos; correct, sir?

12 A Yes.

13 Q Okay. I notice you have one here entitled, "The  
14 Development of Knowledge about Asbestos Disease," which is  
15 dated 1977.

16 A Yes.

17 Q Okay. What moved you to prepare that article?

18 A I was asked to summarize the medical literature,  
19 the historic medical literature on asbestos disease.

20 Q Who asked you to do that?

21 A This was requested by Walter Umphrey, a lawyer  
22 in east Texas, and he asked me to write a coherent summary

1       of all these medical articles --

2           Q     Were you able to --

3           A     -- which he could use to present the evidence  
4       in court.

5           Q     Were you able to write a coherent summary?

6           A     I did the best I could.

7           Q     Okay. I take it Mr. Umphrey is a plaintiff's  
8       attorney.

9           A     Mr. Umphrey was a plaintiff's attorney in that case.

10          Q     Okay. And this summary was to be used in that  
11       particular case; correct, sir?

12          A     Well, --

13          Q     That was the initial --

14          A     It was to be used initially in that case.

15          Q     Do you recall the style of that case, who the  
16       plaintiff was?

17          A     No.

18          Q     All right, sir.

19           In preparing this work -- and the copyright date  
20       was 1977 -- when did you begin your preparation for that  
21       article?

22          A     Some time in 1976, pretty late in the year.

1 Q Okay. And when in 1977 did you complete it?

2 A February.

3 Q So we are talking about a span of a couple months?

4 A Oh, maybe five, six months. I don't recall now  
5 exactly.

6 Q So in five or six months you were able to review  
7 all of the medical literature in the United States and  
8 wherever else you went to for your sources and prepared a  
9 coherent summary of those articles?

10 A I'm afraid I wasn't able to review all the  
11 medical literature. The medical literature turned out to be  
12 a lot more vast than I then imagined it to be. But I was  
13 able to review a substantial body of medical literature and  
14 summarize what I found.

15 Q At least you purported to be conveying what you  
16 felt was an adequate summary of the medical literature at  
17 that time?

18 A Yes.

19 Q All right, sir. And this was self-copyrighted;  
20 correct?

21 A Yes.

22 Q And no one asked you to get a copyright on it

1 or no one got it for you?

2 A No.

3 Q All right.

4 Have you revised that since that time?

5 A Not completely, but I am hoping to.

6 Q Are you in the process of doing that?

7 A Yes. Well, I am trying -- I've been doing some  
8 writing for about two years now.

9 Q Okay. Did you subsequently testify in that case?

10 A No. It was settled.

11 Q Okay.

12 Did you have involvement in 1978 with a plaintiff's  
13 attorney in Texas by the name of M-o-t-l-e-y?

14 A It was some time around 1978, I guess, maybe early  
15 in '78 that I met a fellow named Ron Motley. He is not  
16 in Texas. He is in South Carolina. But I assume that's the  
17 fellow you are asking about.

18 Q Umphrey was in Texas but Motley was not?

19 A That's right.

20 Q What did you do for Motley?

21 A Motley wanted to know whether there had been  
22 compensation claims against the contracting divisions of

1       asbestos manufacturing companies, and if so, could the  
2 records of such claims be located.

3           Q     Did you locate all the claims?

4           A     I located a few. Motley was able to obtain from  
5 one of the defendants, Armstrong Cork, a list of compensation  
6 claims and when I went to the state agencies where the com-  
7 pensation records were held, it turned out that Armstrong  
8 wasn't the only defendant and there were other companies also  
9 involved in those proceedings.

10          Q     You may have already answered this, but let me  
11 make sure: Subsequent to your writing in 1977 an article  
12 summarizing asbestos literature, you have not published  
13 anything else similar to a summary. Is that correct?

14          A     I have written little comments for Congressional  
15 hearings but not a comprehensive sort of thing like that.

16          Q     Okay.

17              With your retainer with Mr. Baron, what is it  
18 that you are to do for him when he calls upon you to testify  
19 at trial?

20          A     Well, the retainer entitles him to list me as a  
21 witness without advance notice, but if he needs me, he should  
22 give me as much advance notice as he possibly can. That's

1       the understanding -- meaning if he needs me in trial or a  
2 deposition, if he needs specialized research on a case, let's  
3 say it's an unusual case and the state-of-the-art evidence  
4 for that case would be a little different than some others,  
5 then that would be separately billed if it ran into a lot of  
6 time. But if it was just a little bit of time that would  
7 be included free because of the retainer.

8           Q     Okay. So for lack of a better term, would it be  
9 a fair statement to say that you are sort of on a retainer  
10 with Mr. Baron as a librarian or a researcher for medical  
11 literature?

12          A     You could put it that way.

13          Q     When he comes to you he wants to know what's out  
14 there as far as medical literature goes; right?

15          A     Yes.

16          Q     You don't testify in any formal capacity or  
17 represent yourself to be an expert on any causal connection  
18 between asbestos and asbestos-related disease; do you, sir?

19          A     No.

20          Q     Okay. And so if you are called to testify in  
21 any one of these three cases which presently are pending in  
22 the Eastern District of Texas, it would be simply on a

1 summarization of the medical literature in the field; is that  
2 correct?

3 A Yes. And by "medical literature" we would -- I  
4 would mean that in the broad sense of the words.

5 Q Okay. Well, let's try to narrow the broad sense  
6 down then. What type of literature are we actually referring  
7 to?

8 A Well, I don't mean solely published documents. I  
9 would include things like the state compensation records that  
10 we have discussed. I would include other records which I have  
11 seen at the Saranac Laboratory -- Trudeau Institute in  
12 Saranac Lake, New York. And things of this sort which, while  
13 not all published documents, still would be helpful to a  
14 jury in determining who knew what about asbestos disease and  
15 when they knew it and what they did about it.

16 MR. SHORE: Could you read that last answer back,  
17 please?

18 (Answer read.)

19 MR. SHORE: All right.

20 BY MR. SHORE:

21 Q You presume it would be helpful to a jury. You  
22 hope it would?

1           A     I would provide as much information as is necessary  
2 for the jury to understand what went on.

3           Q     You are not qualified as an expert to comment or  
4 editorialize on any of these articles; are you, sir?

5           A     I think I am.

6           Q     What makes you think you are?

7           A     Well, I happen to think that I am. I have been  
8 trained as well in toxicology and epidemiology and I have been  
9 reading articles like this for quite a long time, and I have  
10 been reading these articles in great profusion and I have  
11 some idea what they mean.

12          Q     All right, sir. So it's more self-professed  
13 expertise then; right?

14          A     Let's just say it is an expertise that I think  
15 is recognized by most of the people I deal with, except  
16 defense attorneys.

17          Q     All right, sir.

18                 Have you ever testified either by deposition or in  
19 trial as an expert in toxicology and/or epidemiology?

20          A     No.

21          Q     How much education have you had concerning these  
22 two subjects?

1           A     I have had about four courses in epidemiology  
2 and five or so in toxicology.

3           Q     Is that in regard to your doctorate program?

4           A     Yes. And previous training at the master's level.

5           Q     How much of this training has been in regard to  
6 your doctorate program?

7           A     Most of it.

8           Q     Which you have not completed yet; correct, sir?

9           A     I have not completed the complete degree require-  
10         ments.

11          Q     As a matter of fact, I believe from your prior  
12         testimony you have only been involved in your doctorate  
13         program for approximately one year.

14          A     That's right.

15          Q     All right. If you are called to testify in any  
16         one of the previously three mentioned trials, do you intend  
17         to testify as an expert in toxicology and/or epidemiology?

18          A     No.

19          Q     All right. So, therefore, your basic function  
20         will be simply to present the research you have conducted in  
21         this field; correct?

22          A     Yes.

1 Q Okay. And will you be giving any opinions in  
2 regard to that research?

3 A Most of the time I am not asked to give opinions  
4 in trial and I'm not fond of giving opinions. But I do  
5 sometimes for the sake of brevity and comprehensibility try  
6 to summarize this information --

7 Q Well, I realize --

8 A -- rather than read from every single article.

9 Q Right. I realize you can't go through and give  
10 a blow-by-blow description of every article you have read.  
11 You have to summarize a lot of it. Why aren't you fond of  
12 giving opinions?

13 MR. WEINSTEIN: I didn't hear the question.

14 MR. SHORE: Why aren't you fond of giving opinions?

15 MR. WEINSTEIN: Why aren't you fond?

16 MR. SHORE: "Fond." F-o-n-d.

17 THE WITNESS: I think that it doesn't really aid  
18 the jury a great deal to know what I think about all this  
19 stuff. I think that it is -- and, of course, this opinion  
20 may or may not be shared by other parties involved in these  
21 actions, but I think that the documentation, if it can be  
22 presented in a reasonably complete way, speaks well enough

1 for itself that a jury should be able to understand it and  
2 evaluate it.

3 MR. SHORE: Okay.

4 BY MR. SHORE:

5 Q Your attorney handed me something today from the  
6 case records of the Massachusetts General Hospital where it  
7 has a Benjamin Castleman, M.D., associate editor. Is he akin  
8 to you?

9 A I don't think so.

10 Q Okay.

11 What type of consulting work have you done aside  
12 from your work with the plaintiffs' bar in asbestos litigation?

13 A Well, as I said, when I worked with environmental  
14 groups I was involved in preparing petitions to government  
15 agencies and generally meeting with regulatory agencies and  
16 trying to get them to take certain actions to protect the  
17 public health. This continued when I was an independent  
18 consultant. I was hired by the Natural Resources Defense  
19 Council and the Environmental Defense Fund to do research,  
20 policy oriented research on the hazards of flame-retarded  
21 children's sleepwear.

22 Q Is that Tris?

1           A     Yes, Tris and asbestos in drywall spackling  
2 compounds.

3           Q     All right, sir.

4           A     And various other things.

5           Q     In Exhibit Number 2, which I believe you said  
6 was an older resume of yours, it has Environmental Defense  
7 Fund, that you were a consultant for them in 1975, and it  
8 has asbestos and mercury in foods. Was that in regard to  
9 asbestos in foods?

10          A     Yes, it was.

11          Q     And it had nothing to do with its effects on  
12 insulators and plant workers, et cetera?

13          A     That's correct. It was not a situation involving  
14 occupational exposure to asbestos.

15          Q     All right, sir. And on that same Exhibit 2 it  
16 has Federal Trade Commission, survey of asbestos in consumer  
17 products, 1976. What did you do for the FTC during that time?

18          A     I tried to -- I went through 30 years of fuck  
19 issues of Asbestos Magazine looking at their periodic listing  
20 of patents and new products and using this and other sources  
21 I tried to gather up a list of all the products in which  
22 asbestos was used.

1 Q It says, "Consumer Products." Would that  
2 encompass insulating materials?

3 A Yes.

4 Q All right, sir.

5 Finally, down here we have got the Asbestos  
6 Litigation Group, 1978. Now, what is the Asbestos Litigation  
7 Group?

8 A That's a group, a very loose-knit group of  
9 plaintiffs' attorneys involved in asbestos litigation.

10 Q Are you on a retainer with the Asbestos Litiga-  
11 tion Group?

12 A No.

13 Q Do you still work for them?

14 A Periodically I will find leads and want to pursue  
15 them in order to develop additional information on the  
16 state of the art, and I might contact the litigation group and  
17 ask for a few hundred dollars for it.

18 Q If they were to call you tomorrow and ask you for  
19 services, what would your fee be?

20 A Generally the only services I have provided to  
21 this group have been research services, and for that I charge  
22 \$62 an hour.

1 Q I take it they are all plaintiffs' attorneys  
2 also. Correct, sir?

3 A They all represent themselves to be plaintiffs'  
4 attorneys; yes.

5 Q All right, sir.

6 Have you ever testified before any Congressional  
7 committees concerning asbestos and asbestos-related diseases?

8 A Yes, I have.

9 Q Which ones and when?

10 MR. WEINSTEIN: Which diseases or which committees?

11 MR. SHORE: Which committees and when.

12 THE WITNESS: Oh, it probably would be easier if  
13 I looked at the sheet you are holding.

14 (Document handed to witness.)

15 (Witness referring to document.)

16 THE WITNESS: The first few times were before sub-  
17 committees of the U. S. Senate Commerce Committee on something  
18 known as the Toxic Substances Control Act. And then later on  
19 there was some concern over in the House of Representatives  
20 about asbestos hazards to school children, and I was asked by  
21 the counsel for the House Committee on Education and Labor  
22 to submit comments for the record of those hearings in

1 1979 or '80.

2 BY MR. SHORE:

3 Q And --

4 A Later on I was asked to testify in a hearing  
5 in 1979 which I see here was published in 1981, dealing with  
6 proposed changes in the Federal Criminal Code as it relates  
7 to certain business practices.

8 Q In regard to dealing with testimony concerning  
9 asbestos it was more of an informative type testimony for  
10 the committee as to what you found in your research with  
11 regard to what literature is out there?

12 A Yes, in the sense that I have described it, what  
13 I mean by "literature."

14 Q All right, sir. Let's go back to your testimony  
15 in these trials if you are to give any that we have been  
16 referring to, and I think we have established that you are  
17 not going to be giving any opinions. What type of literature  
18 would be comprising the summaries that you are going to be  
19 presenting if you do testify?

20 A I am not sure I understand your question.

21 Q All right.

22 A Let me have that document back.

1                             (Document handed to witness.)

2                             THE WITNESS: This is a list of medical articles  
3 used in a case of a man named Luther McCoy.

4                             Q      Is that a case you testified in?

5                             A      It was a case I was listed in, and I may have been  
6 deposed in this case, but I'm pretty sure this one didn't  
7 come to trial.

8                             Q      All right, sir.

9                             A      So here I have listed a large number of articles  
10 which might be used.

11                          Q      This is your document, sir?

12                          A      Yes.

13                          Q      Do you have another copy?

14                          A      I'm sure I do, at home.

15                          MR. SHORE: Why don't you mark that, please, as  
16 Number 3.

17                          (Defendants' Exhibit No. 3  
18 is marked for identifica-  
19 tion and attached to the  
deposition original.)

20                          BY MR. SHORE:

21                          Q      While they are copying that document let's try to  
22 talk in general terms about what you consider exists out

1 there as far as literature in the asbestos field that you will  
2 be using to testify. Basically what is it comprised of?

3 A Well, --

4 Q I am not asking for specifics.

5 A I understand. It consists of medical articles,  
6 primary medical articles such as this case report of the  
7 Massachusetts General Hospital. It consists of secondary  
8 sources such as this thing called The Industrial Bulletin  
9 published by the Industrial Commissioner of the State of  
10 New York. I have an article from 1934 from that.

11 And then there is even further downstream  
12 literature like encyclopedia articles and things like that  
13 which together comprise a body of written knowledge, and  
14 this would include things like medical textbooks and trade  
15 magazines that periodically carry articles on dust hazards.

16 Q Have you done that type of research for Mr. Baron?

17 A Well, I have done that type of research -- I'm not  
18 sure I understand your question. You mean compiling this stuff?

19 Q Right.

20 A Yes. I have done it for Mr. Baron, and for others.

21 Q All right. When you established your retainer  
22 agreement with Mr. Baron what did he ask you to do?

1           A     Basically he just asked me to be available for  
2 trial or depositions if needed.

3           Q     Did he ask you what type of documents or  
4 summaries you have concerning medical literature in the  
5 asbestos field, or did he ask you to go out and find some?

6           A     I think by the time I met Mr. Baron I had a fairly  
7 good collection of such articles. It has been enlarged quite  
8 a bit since then, but the basic -- the basic picture of  
9 literature and the knowledge and how it developed was already  
10 embodied in the collection of documents I had when I met him.

11          Q     Well, sir, I think it's no secret to anyone that  
12 the plaintiffs' use of you as a witness is to attempt to show  
13 knowledge of hazards of asbestos at an early stage. Would  
14 that be a fair statement?

15          A     I suppose that's what they intend to use me for.

16          Q     And in doing your research has it not been geared  
17 mainly to finding that type of literature?

18          A     The type of literature I have been looking for  
19 has been anything and everything dealing with the subject of  
20 asbestos disease. And I have not been able to guide my  
21 search, even if I wanted to, so that I would only find things  
22 that are helpful to the plaintiffs.

1 Q Okay. Well, at trial do you present things that  
2 are helpful to the plaintiff and things that are not helpful  
3 to the plaintiff?

4 A We are generally limited to just presenting things  
5 that are most helpful to the plaintiff's case. But I think  
6 in fairness there isn't very much that's helpful to the  
7 defense in the entire history of medical literature on  
8 asbestos.

9 Q And whatever, sir, that is helpful, you somehow  
10 seem to leave that out of your testimony; correct, sir?

11 A Some of those articles are listed in the master  
12 list that we are reproducing and those articles do get  
13 discussed both by plaintiffs — both on direct and on cross-  
14 examination.

15 Q Usually on cross; right?

16 A We usually take up the Fleischer report on direct.  
17 We usually take that up on direct at least briefly.

18 Q This article you published in 1979, "Asbestos  
19 Disease and Compensation," co-authored by a Mr. R. E. Sweeney,  
20 is that the plaintiff's lawyer down in Florida?

21 A No.

22 Q A different Sweeney?

1 A Yes. He is a plaintiff's lawyer in Cleveland.

2 Q All right.

3 A Sweeney was giving a talk at a conference and I  
4 wanted to get some things into the literature and so I  
5 presented this article to Sweeney and said, would you mind  
6 being my co-author for this, and dumping it into the annals  
7 of the New York Academy of Sciences. The article was subse-  
8 quently accepted by the editors of the conference.

9 Q I would like for you to take a look at page two  
10 of Exhibit 1 and tell me if there are any articles that you  
11 published which are not on that page.

12 (Witness referring to document.)

13 THE WITNESS: These are called principal publica-  
14 tions. In the early days when I worked for environmental  
15 groups I also wrote occasional articles for magazines like,  
16 "Not Man Apart" published by Friends of the Earth and other  
17 magazines of that sort.

18 MR. SHORE: All right. Let me --

19 THE WITNESS: These things are not listed here.

20 MR. SHORE: Let me rephrase my question.

21 BY MR. SHORE:

22 Q Do you have any other articles dealing with

1 asbestos which are not listed on that page?

2 A I don't think there is anything that I have  
3 published that has more than the least scintilla of value in  
4 connection with this litigation that is not on this page.  
5 This is all the substantive -- This is all the substantial  
6 work that has been done.

7 Q All right. So if something else were to come  
8 up at trial dealing with asbestos, an article you published  
9 which is not on this page, it probably wouldn't have the  
10 least scintilla of value to a jury. Correct, sir?

11 A That's correct.

12 Q Are all of these articles dealing in one form or  
13 another with asbestos?

14 A Not every one.

15 Q Okay.

16 A I don't think so. Let me take another look, please.

17 (Witness referring to document.)

18 THE WITNESS: Asbestos is probably mentioned at  
19 least briefly in -- Well, almost every one. There is one on  
20 the export of chemical waste. I may have successfully com-  
21 pleted writing this article without mentioning asbestos.  
22 Almost all the other things in here mention it in some way.

1                   MR. SHORE: Okay.

2                   BY MR. SHORE:

3                   Q     In reviewing the medical literature or the  
4     industry literature or both, whatever encompasses your work  
5     in this area, has it mainly dealt with studies done on plant  
6     workers as opposed to insulation workers?

7                   A     I have tried to find out as much as I could on  
8     both plant workers and insulation workers.

9                   Q     What articles do you present in your testimony at  
10   trial which deal with insulation workers?

11                  A     There are a few dozen case reports and epidemi-  
12   ological studies that were done prior to Selikoff's publica-  
13   tion in 1964, And then there are -- And then there are, as I  
14   would call them, downstream publications of the primary  
15   literature such as mentioned in medical textbooks and trade  
16   magazines and things like even encyclopedia articles which  
17   show the drift of the knowledge as it -- as time passed from  
18   the priamry literature to secondary and even more secondary  
19   sources of knowledge.

20                  Q     What sort of expertise do you have to have to  
21   dig up these articles?

22                  A     Well, it helps to read -- It helps to read a

1       little German and French and to know how to use medical  
2       libraries and the Library of Congress. Basically it is a  
3       straightforward matter of trying to read every darn thing  
4       you can find, and that means if you have got an article and  
5       the article has references to other articles, you look at  
6       those other articles and you see if they might have something  
7       of interest, and if necessary, you go and get them and read  
8       them too.

9                  Q       All right, sir. This literature is primarily  
10         published literature which is available to anyone?

11               A       Yes.

12               Q       Is there any -- Is there any of this literature  
13         which is not published in the form of transcripts of pro-  
14         ceedings or something which is not available to the public,  
15         or do you throw that type of stuff into your summarizations  
16         also?

17               A       It depends on the rulings of the judge and it  
18         depends on the plaintiff's attorneys. Sometimes the plaintiff's  
19         attorneys are only interested in presenting published informa-  
20         tion, so that's all I discuss. Others like to get into  
21         things like the S-u-m-n-e-r Simpson documents.

22               Q       Let me stop you there. You don't purport to be

1 an expert on the Sumner Simpson documents; do you, sir?

2 A I don't know what you mean by that. But I think  
3 that I can read them and that they have much plainer English  
4 than the medical literature and as such are quite compre-  
5 hensible -- quite easily comprehensible to anyone with no  
6 specialized training.

7 Q Go on. I interrupted you.

8 A On the sorts of documents that I would use?

9 Q Yes.

10 A Well, as I say, I have been to the Industrial  
11 Hygiene Foundation now called the Industrial Health Foundation  
12 and I have looked at documents there. I have been to the  
13 Trudeau Institute and looked at documents there. I have been  
14 to the Walter Reed Hospital where the Armed Forces Institute  
15 in Pathology has archives of Dr. Arthur V-o-r-w-a-l-d, and  
16 I have looked at these old state compensation records that  
17 we talked about. And then there have been other things that  
18 have been sent to me which were obtained by plaintiff's  
19 lawyers in discovery; things like minutes of the Asbestos  
20 Textile Institute and company documents from various defendants.

21 Q So a lot of these documents are documents which  
22 are not available to the general public; is that correct?

1 A Yes.

2 MR. SHORE: Let's go off the record.

3 (Discussion off the record.)

4 (Recess.)

5 BY MR. SHORE:

6 Q Mr. Castleman, earlier on you handed me a docu-  
7 ment with a list of articles on it which we marked as Exhibit  
8 Number 3. Would you describe for me again what that is,  
9 please, sir?

10 A This is a list of articles most of which are  
11 published documents dealing with asbestos disease.

12 Q When was it prepared?

13 A The original 208 list was prepared about a year-  
14 and-a-half or two years ago, and the other documents were  
15 added to it going up to 242.

16 Q Was this prepared by yourself?

17 A No. This was done by an attorney I was working  
18 with named Marlin Thompson.

19 Q Let me rephrase my question:

20 Were the articles provided to him by you?

21 A Yes, they were my articles. Almost all -- some  
22 of these were articles he had, so he blended his collection

1 with mine.

2 Q Okay. It's obvious this was prepared for some  
3 sort of trial. What did this attorney ask you to do when he  
4 asked you for these articles?

5 A I think I was testifying in a case that Mr.  
6 Thompson was involved in in Oklahoma City, and we decided to,  
7 or were required to actually come in with the documents that  
8 we intended to use to establish the state of the art. And  
9 so this list was prepared and all the documents on it were  
10 photocopied and carried around in a big box.

11 A Now, you used the term "state of the art." What  
12 do you mean by state of the art?

13 A Now this is my understanding of a legal expression  
14 so with that in mind I will try to define what I mean by it.

15 Q Okay.

16 A It is the developing recognition of the hazards  
17 of asbestos by various people who wrote about it and by  
18 inference, anybody who read what they wrote.

19 Q Okay. Are you going to be used as a, quote,  
20 "state-of-the-art," close quote, witness?

21 A That's what I understand that my testimony is  
22 presented as.

1 Q Okay. And as a state-of-the-art witness, again  
2 I think we have established that your function is primarily,  
3 "This is the research I have found and this is what it says."  
4 Correct?

5 A Yes.

6 Q Okay. And it is for others to make use of it  
7 in regard to who had knowledge of what when; right?

8 A Yes.

9 Q Okay. So you are not presenting it and trying  
10 to say that any certain manufacturer had knowledge at any  
11 specific time; are you?

12 A Well, there are a few things in here that might  
13 reflect on that.

14 Q But all you can testify to --

15 A In general; yes. I'm trying to present a compre-  
16 hensive picture of the knowledge as it evolved.

17 Q All you can testify to is that these articles  
18 did in fact exist at a certain date?

19 A Well, let me show you what I mean, why I am  
20 having a little trouble with your question.

21 Q Before you do that can you answer my question?

22 MR. WEINSTEIN: Apparently not. That's why he

1       wants to show you.

2                  THE WITNESS: Some of these things are not things  
3       that were published, but they were communications that were  
4       received by companies manufacturing asbestos products.

5                  BY MR. SHORE:

6                  Q     Let me stop you there. How do you know that, or  
7       was that an inference on your part?

8                  A     Well, in the case of Document 88 on this list --

9                  Q     Just a minute.

10                 (Counsel and witness referring to document.)

11                 THE WITNESS: This is a report of research to  
12       the Owens Illinois Company by the Saranac Laboratory, and it  
13       talks about the -- it summarizes the findings -- I'm sorry.  
14       Well, I believe that this exhibit is stapled to a letter  
15       which should have been noted here but it wasn't, dated  
16       November 16, 1948, and the letter and the report both went  
17       to, or were sent to Owens Illinois by the Saranac Laboratory  
18       according to documentation at the Saranac Laboratory. And  
19       I understand that some of these documents have also been  
20       obtained in discovery from Owens Illinois. So apparently the  
21       documents were received.

22                 BY MR. SHORE:

1 Q That's just hearsay on your part; right?

2 A Well, also in the cover letter, the November  
3 letter of 1948, there was some discussion of bills that were  
4 owed, and Document 103 seems to answer the question of that  
5 billing, and there was some stuff written in the margin about  
6 how it has all been paid. So apparently the bills that were  
7 presented in the earlier letter in 1948 had been paid up by  
8 some time in 1950.

9 Q What I am getting at is, that's inferential  
10 treatment by you of the documents; correct?

11 A Yes. I mean, I can't --

12 Q You can only relate what's in the documents.

13 A I cannot testify that those documents were  
14 received by somebody when I was four years old by having  
15 actually been present at the time it was received. That's true.

16 Q All right. So again, all you can testify to,  
17 going back to my original question, is that these documents  
18 are what you found and they are dated on a certain date and  
19 they contain certain material. Right?

20 A Yes.

21 Q Okay. And I guess depending on what the judge  
22 does, you normally can't, or you can't say whether or not

1       they were received by any specific manufacturer or any other  
2       body.

3           A     No. I think I would be limited to telling what I  
4       know and letting other people come to their own conclusions  
5       about what it amounts to.

6           Q     All right.

7                   Now, you dug up every one of these articles?

8           A     I think the expression "dug up" is a little unkind.

9           Q     Well, I didn't mean it to be, but I will stick  
10      with it. These are all the result of your research?

11           A     Other people have provided some of these articles  
12      to me. I didn't find every single one. I mean, they were  
13      there to be found. It's just a question of whether I found  
14      them first or whether somebody else who was interested in this  
15      subject found them and passed a copy along to me. But most  
16      of these articles I found myself and I'm pretty familiar  
17      with them.

18           Q     Give me a percentage of how many you found yourself.

19           A     Well, it would be something over 90 percent, I  
20      guess.

21           Q     Okay. Have you read every one of these articles?

22           A     Yes. But some I have not read recently.

1 Q Okay. When did you start compiling this list

2 A I guess I started in earnest to develop a collection  
3 of articles like this when I started working with  
4 Mr. Umphrey back in 1976.

5 Q It's obvious from this that we are dealing with  
6 thousands and thousands and thousands of pages of documents;  
7 right?

8 A Yes.

9 Q Of which you have read some but not all?

10 MR. WEINSTEIN: No. He testified he read all of it.

11 THE WITNESS: I have read all the documents but  
12 I wouldn't -- I wouldn't propose that I remember every single  
13 thing that's in every one of them; no.

14 BY MR. SHORE:

15 Q I notice you have your own article listed here,  
16 Number 241.

17 A I have several articles of mine listed here; yes.

18 Q Okay. And it's your testimony that your articles  
19 include or make up the so-called state of the art literature  
20 out there; right?

21 A Yes; certainly.

22 Q Okay. And if I were to write an article on

1 asbestos-related diseases with my limited background, would  
2 that get included in here?

3 A It depends if your article had something useful  
4 to contribute to the state of knowledge.

5 Q Okay. So in your opinion all of these have  
6 something useful to contribute to the state of knowledge;  
7 correct, sir?

8 A Yes. And my opinion is sometimes corroborated  
9 by statements made by the companies themselves.

10 Q And sometimes they are not; right?

11 A Well, I mean yes, sometimes my writings and  
12 pleadings have fallen on deaf ears. For example, --

13 Q Well, I'm not speaking just in particular to your  
14 articles. I am speaking in particular to all of them.

15 MR. WEINSTEIN: What's the pending question?

16 MR. SHORE: Whether or not they have -- Whether  
17 or not in his opinion they have value to the industry,  
18 community, et cetera.

19 MR. WEINSTEIN: I don't understand that. Whether  
20 or not every article has value to the industry?

21 MR. SHORE: Let's go off the record a second.

22 MR. WEINSTEIN: I lost the train of thought.

1 MR. SHORE: Off the record.

2 (Discussion off the record.)

3 MR. SHORE: Let me rephrase the question.

4 BY MR. SHORE:

5 Q. Mr. Castleman, I guess there is a little con-  
6 fusion as to my question so I am going to restate it to you.  
7 Based on your prior testimony I take it then that in your  
8 opinion all of these articles in Exhibit Number 3 have some  
9 usefulness or contribute some benefit to the industry,  
10 community, et cetera.

11 A. Well, I'm afraid I would only hedge in looking at  
12 Number 107, for example, which is crossed out which was an  
13 advertisement which, as far as I can tell, was inadvertently  
14 included in this list of articles. And there may be one or  
15 two other things like that which really don't contribute very  
16 much but which were included by Mr. Thompson when he compiled  
17 the list.

18 Q. So this is not entirely your list?

19 A. Well, the list was, as I say, compiled by  
20 Mr. Thompson gathering together articles that I provided to  
21 him and some articles that he had on his own which I wouldn't  
22 -- I'm not sure I would have selected some of those articles

1 simply because I didn't -- I don't think that they add a  
2 great deal. Some of them are too recent to be involved, to  
3 really deal with the issues in these cases.

4 Q Well, in gathering your material, did you exercise  
5 any sort of judgment as to what you felt was beneficial and  
6 nonbeneficial in preparing your list for these plaintiffs'  
7 attorneys?

8 A Yes. The plaintiffs' attorneys said that they  
9 weren't terribly interested in a bunch of articles showing  
10 people who worked in asbestos textile plants getting  
11 asbestosis; that this was an issue which was conceded by the  
12 defendants going back to 1930 or so, and that it would be  
13 much better use of the court's time if I would try in the  
14 case of an insulation worker to guide my testimony toward the  
15 use of documents that specifically address the existence of  
16 an asbestos disease risk in insulation work.

17 Q So in gathering your documents there is, to some  
18 extent, objectivity on your part -- or excuse me -- subjectivity  
19 on your part as to what information you feel is beneficial;  
20 correct, sir?

21 A Well, I think the word "relevant" is probably  
22 a better choice than "beneficial." You have a choice

1       between trying to present thousands of articles or trying  
2       to boil it down. You will see that this list has numbers  
3       going up to 20 or so, and in this particular case the judge  
4       said he wanted to hear it all in 20 articles and that was it.  
5       And so obviously you have to do some selection in terms of  
6       what you think is relevant to the issues involved in the case  
7       and present in a defensible, legitimate, honest way how the  
8       knowledge developed.

9           Q     So it involved subjectivity on your part --

10          A     As I have described it.

11          Q     -- as to what you feel is beneficial?

12          A     As I have described it.

13          Q     And preferably to the plaintiff's case; correct,  
14       sir?

15          A     Well, as I say, even in this list of 20, the  
16       Fleischer article is listed, and this is an article which the  
17       defendants are very fond of.

18          Q     Well, --

19          A     And it is also included.

20          Q     I believe you have testified before, have you not,  
21       sir, where you omitted testifying about the Fleischer article?

22          A     It may have been omitted on direct in some cases.

1 In this case I wanted to use it even though I was limited to  
2 only 20 articles. It varies. It depends partly on the  
3 attorney that represents the plaintiff.

4 There is sometimes extremely minimal preparation  
5 before trial in terms of discussing these things and the  
6 attorney might just want presented encyclopedia articles and  
7 figures that tell the jury enough. So he wouldn't ask me  
8 about the Fleischer article and I am not in a position to  
9 raise it when I am sitting up there on the witness stand. So  
10 these aren't just decisions that I make.

11 Q Well, going back a little further into your  
12 research, are you exercising subjectivity in gathering these  
13 documents as to what may or may not be beneficial or, as you  
14 use the term, "relevant?"

15 A Obviously some documents are more relevant to  
16 the issues involved than others.

17 Q In your opinion --

18 A And I use my judgment in selecting documents which  
19 are more relevant. If it's a case report of asbestosis in a  
20 German asbestos textile worker in an obscure journal that I  
21 have not heard of, I think that's a lot less important and  
22 relevant or beneficial or any other term you want to use than

1 a case report in the New England Journal of Medicine about  
2 an insulation worker with asbestosis and mesothelioma, m-e-s-  
3 o-t-h-e-l-i-o-m-a.

4 MR. WEINSTEIN: Did you say what year that was?

5 THE WITNESS: That's 1947.

6 BY MR. SHORE:

7 Q Was your research geared more to case reports  
8 or epidemiological studies?

9 A As I say, I have tried to get ahold of anything  
10 and everything that spoke of the developing knowledge about  
11 asbestos disease.

12 Q So --

13 A I have not tried to limit it in any way. That's  
14 true, that I have not had as much opportunity to go through  
15 some sources as others; like insurance industry journals might  
16 be very interesting to read about all this. I have not  
17 had a chance to go through them.

18 Q Okay. Let's get into that just a little bit.

19 What areas do you feel you could have gone into  
20 which would have provided you with a better basis for pre-  
21 senting testimony in regard to what literature exists out there?

22 A Well, there are innumerable trade journals and

1       these are journals of the chemical industry, journals of the  
2       paint manufacturers and journals of the construction industry  
3       in all of its innumerable manifestations. And it's very hard  
4       to get ahold of -- at least I have not so far gotten ahold of  
5       any comprehensive listing of these very many trade journals  
6       to try and select certain ones which would be most helpful  
7       in showing what the construction industry in its own journals,  
8       for example, have to say about asbestosis.

9           Q.     Would it be a fair statement to say that there  
10      are many more articles out there than the ones you have  
11      gathered?

12          A.     It depends on what you mean by "many." I am sure  
13      I have seen just about every real significant medical article.  
14      I think you would be very hard pressed to find a case report  
15      or an epidemiological study on asbestosis, insulators or  
16      product users that I have not heard about.

17          Q.     Okay. "Significant" in your judgment?

18          A.     I think you would have a hard time finding such  
19      an article, significant or insignificant, which was a primary  
20      report of disease in such workers.

21          Q.     In your judgment?

22          A.     What I am saying is I think I have read them all.

1 Q My question is, is it in your judgment?

2 A In my judgment.

3 Q Okay.

4 When do you expect to be hearing from Mr. Baron  
5 as to whether or not you are going to be testifying in these  
6 asbestos cases?

7 A Some time next week I guess.

8 Q Okay. And you have no idea which, if any, of  
9 these cases you will be required to testify in?

10 A No. As you are well aware, these things have a  
11 way of going right down to the wire and then getting settled  
12 or postponed very often.

13 Q How many other plaintiffs' attorneys are you on  
14 a retainer with?

15 A I don't know.

16 Q Take a guess.

17 A In terms of people who are currently paid on  
18 their bills?

19 Q Currently paid or not totally paid.

20 A I don't know. A dozen.

21 MR. WEINSTEIN: Are we on the currently paid list?

22 THE WITNESS: Off the record.

1 (Discussion off the record.)

2 THE WITNESS: Maybe a dozen or 15; something  
3 like that.

4 MR. SHORE: All right.

5 BY MR. SHORE:

6 Q. Just one or two more questions. I would like to  
7 get an idea, a little bit more definite idea on how many  
8 actual trials you have testified in on behalf of a plaintiff.

9 A. I think there have been four trials in Oklahoma.  
10 And all of these --

11 MR. WEINSTEIN: Four in Oklahoma or Oklahoma is  
12 one of the four?

13 THE WITNESS: In the Oklahoma City Federal Court  
14 the plaintiff's attorney was Silas, S-i-l-a-s, Wolf, W-o-l-f,  
15 Junior, and then two in Texas, I think. There was the Mason  
16 case, and Gillis, G-i-l-l-i-s.

17 MR. SHORE: Who was the attorney then?

18 THE WITNESS: Mr. Baron.

19 And then there was one in Florida back in 1979.

20 MR. SHORE: Who was the attorney there?

21 THE WITNESS: Mr. Baron.

22 Then there was one in May in Boulder, Colorado,

in the state court.

BY MR. SHORE:

3 Q. And the attorney?

Q. How many other trials?

A Off the top of my head I can't think of any others.

8           Q.     Okay.  Without going into specifics, how many  
9     times have you testified by way of depositions.  I know you  
10   gave me a general number, but I would like for you to think  
11   back specifically, if you can.

12           A. Well, I have the feeling that there are more  
13 depositions than trials.

14 Q You are probably right.

15 A I would guess around 10, but maybe not that many.  
16 I'm not sure.

17 Q. That would be in addition to these trials?

18 A Yes. Well, for some of those trials there were  
19 depositions as well as trial testimony; one or two of them

**20**      0      Okay

<sup>21</sup> A Two of them that I can think of

**22** Q So would it be a fair approximation to say that

1 you have been involved either by deposition or actual, live  
2 trial testimony in around 15 plaintiffs' cases, to date?

3 A Yes.

4 Q Okay. And you are on a retainer with several  
5 plaintiffs' attorneys; approximately 15 I believe your testi-  
6 mony was.

7 A A dozen to 15 was my testimony.

8 Q Okay.

9 A And that's just a guess.

10 Q And you still do work for the Asbestos Litigation  
11 Group which is comprised of plaintiffs' attorneys; correct?

12 A On occasion; yes.

13 Q You have done no work at all for defense counsel  
14 in these asbestos cases; correct?

15 MR. WEINSTEIN: He is testifying right now for  
16 defense counsel.

17 MR. SHORE: Called as an adverse witness.

18 MR. WEINSTEIN: Being paid by defense counsel.

19 MR. SHORE: Not by our choice.

20 THE WITNESS: Defense counsel has never really  
21 approached me to do anything for them, and I have not done  
22 anything for them as far as being an expert for defendants.

1                   MR. SHORE: Okay. I have no further questions  
2 at this time.

3                   MR. WEINSTEIN: I have no questions.

4                   MR. BUCHER: I have just a few.

5                   BY MR. BUCHER:

6                   Q       Mr. Castleman, your retainer agreement with the  
7 12 to 15 other plaintiffs' attorneys, is that the same terms  
8 as you have with Mr. Baron?

9                   A       Yes.

10                  Q       Have you ever been prohibited from testifying as  
11 an expert in any court?

12                  A       There was an attempt to get a class action  
13 certified down in Mobile, Alabama, I think in 1979, and the  
14 magistrate just didn't want to hear anything I had to say and  
15 ruled that I would not be allowed to testify.

16                  Q       Do you have any medical training, formal medical  
17 training?

18                  A       Well, I am not a doctor, but I have taken medical  
19 physiology and some of these other courses at Johns Hopkins.

20                  Q       You would not be able to qualify as a doctor,  
21 however?

22                  A       I would think not.

1                   MR. WEINSTEIN: I wouldn't let him operate on me.

2                   (Laughter.)

3                   BY MR. BUCHER:

4                   Q     And you would not be in a position to testify as  
5                   to what weight the medical community gave to these some  
6                   240-odd articles that you have listed on Exhibit Number 3?

7                   A     I don't think that would be allowed; no.

8                   Q     Who else other than Mr. Thompson and you is the  
9                   source of the documents that you listed on Exhibit 3?

10                  A     Well, there is a fellow named Stephen Berger.

11                  Q     Who is he?

12                  A     He is a patent agent in California.

13                  Q     What did he provide?

14                  A     He looked into the substitutability of asbestos  
15                  in thermal insulation material, looking at patents and  
16                  engineering journals.

17                  Q     What articles or what item numbers on Exhibit 3  
18                  would they be?

19                  A     I see Number 9 is one of his contributions. This  
20                  was a very optimistic article on how fiberglass was capable  
21                  and ready to replace asbestos to a large degree in 1923.

22                  Q     Which one is this you are reading now?

1 A Number 9.

2 Q This is Palmer?

3 A Yes.

4 Q This was provided by Mr. Berger?

5 A Yes.

6 Q And what other articles?

7 A Number 69 is a letter from Dr. Leroy Gardner to  
8 another doctor who was on a cancer advisory committee.

9 Q Mr. Berger provided this?

10 A No. I got this one from -- when I was visiting  
11 Mr. Motley one time.

12 Q Mr. Motley provided this one?

13 A Mr. Motley provided this one.

14 Q So it's Mr. Thompson, Mr. Motley, Mr. Berger and  
15 you now who are the sources of this list on Exhibit 3.

16 A Yes.

17 Q Anybody else, or any other articles?

18 A I think Mr. Berger found Number 123 by Oliver  
19 Bowles, B-o-w-l-e-s. And there might be one or two more  
20 like that.

21 Q Are there any other articles that you rely on  
22 other than the ones listed on Exhibit 3 containing a total

1 of 242 less the deletes?

2 A I brought a couple more along today which have  
3 come to my attention somewhat recently and I think that they  
4 are useful.

5 Q When did you obtain these?

6 Well, let's mark these as Exhibits 4 and 5 to this  
7 deposition.

8 (Defendants Exhibit Nos. 4  
9 and 5 are marked for identi-  
10 fication and attached to the  
deposition original.)

11 THE WITNESS: These came to my attention within the  
12 last few weeks.

13 BY MR. BUCHER:

14 Q From whom?

15 A One of them I had obtained --

16 Q Which one? Let's start with The Industrial  
17 Bulletin, dated 1934.

18 A Okay.

19 Q Let's go to what has been marked as Defendants'  
20 Exhibit Number 4, The Industrial Bulletin, dated April, 1934.  
21 Where did this come from?

22 A This was from the Library of Congress.

1 Q When did you obtain this?

2 A Within the last two weeks.

3 Q From whom?

4 A I have someone that I send down to the Library  
5 of Congress to procure articles for me which I list references  
6 to, and in this case I was referred to this by a three-volume  
7 book of abstracts and citations called Pneumoconiosis, and  
8 this appeared in the mid-1930s. And one of the things it  
9 referred to was this article from The Industrial Bulletin  
10 which I then had pulled by my researcher so I could read it  
11 in its entirety.

12 Q What was your conclusion after you read it as it  
13 pertains to this particular litigation?

14 A Well, it says in the second paragraph --

15 Q Is that, "It's a pity?"

16 A That's another very good editorial, but the one  
17 on asbestos, the second paragraph goes, "It is quite probable  
18 that the disease resulting from the breathing of asbestos dust  
19 will be similar to that resulting from silica. If that be so,  
20 manufacturers or handlers of asbestos products might begin  
21 here and now to prevent trouble because of the fact that, like  
22 silicosis, the disease can be prevented — there is no cure."

1 Q. These are all probabilities or possibilities?

2 A. Well, your interpretation is --

3 Q. Well, it will speak for itself.

4 A. Yes. I think it speaks for itself.

5 Q. How about Exhibit Number 5, case record of

6 Massachusetts General? When did you get this?

7 A. A couple of weeks ago.

8 Q. From whom?

9 A. Dr. Joseph Wagoner, W-a-g-o-n-e-r.

10 Q. What was the reason for him providing this to you?

11 A. He was over to my house and we were talking about  
12 historic documents on asbestos. I was showing him a few that  
13 I thought he hadn't seen, and he tried to show me one or two  
14 that I hadn't seen and was eminently successful in the case .  
15 of this one article.

16 Q. Do you often meet with Dr. or Mr. Wagoner?

17 MR. WEINSTEIN: It's Dr. Wagoner.

18 THE WITNESS: I don't see him very often; no.

19 Maybe a few times a year.

20 BY MR. BUCHER:

21 Q. Is this on a social basis?

22 A. It's basically business, but we are also --

1 we are also friends.

2 Q. What is the business? What is the business  
3 relationship between you and Dr. Wagoner?

4 A. Well, it's not a business where I pay him or he  
5 pays me. We just exchange information and we have common  
6 interests.

7 Q. What is that common interest?

8 A. The common interest is the prevention of occupa-  
9 tional disease and the literature relating to occupational  
10 diseases in a wide number of industries.

11 Q. Does that include the asbestos industry?

12 A. Yes.

13 Q. Do you discuss the asbestos facets of the  
14 business with him?

15 A. Yes.

16 Q. Do you discuss your testimony at deposition or  
17 trial with him?

18 A. Well, he knows what I do and I know what he  
19 does; yes.

20 Q. He is also an expert, purported expert for  
21 plaintiffs, asbestos plaintiffs?

22 A. I think he is widely regarded as an expert on

1 epidemiology of asbestos and a number of other subjects, that  
2 they cause cancer; yes.

3 Q In any of your search of literature have you come  
4 across any publications by the federal government, federal or  
5 state governments pertaining to asbestos?

6 A Yes.

7 Q Are they listed on your -- on Exhibit 3?

8 A Some things are.

9 Q Do they -- Do they include product specifications  
10 to be provided to the government?

11 A No.

12 Q None of these records indicate that the government  
13 required the use of asbestos in certain products?

14 A I don't think so; no.

15 Q Would that be material?

16 A It's not a medical issue.

17 Q But you are not a doctor.

18 A Well, but I am basically presenting the history  
19 of knowledge on the hazards of the substance, not on its  
20 replaceability. I am not -- In other words, Mr. Berger, for  
21 example, might be used as a witness to discuss the availability  
22 of substitutes for asbestos and the specifications and things

1 like that for asbestos products. I am in no way an authority  
2 on the government specifications for insulation materials  
3 used by the Navy or whatever.

4 Q Do you consider yourself an expert on the medical  
5 aspects of asbestos-related injuries?

6 A I consider myself an expert on the state of  
7 medical knowledge and how it has developed.

8 Q But you are not able to say what weight the  
9 medical profession has given these articles?

10 A I don't think it would be helpful for me to offer  
11 such statements to a jury except perhaps by way of noting  
12 that certain journals were more widely available than others  
13 and certain articles were printed in the English language,  
14 whereas, others were not, and certain articles were abstracted  
15 and others were not. In other words, I could make factual  
16 statements that go to the question of accessibility of the  
17 information. But I don't think that it would be useful to  
18 go beyond that into the realm of opinion.

19 Q Are all these 242 articles you list on Exhibit 3  
20 readily accessible in the United States?

21 A I think I got them all in the United States.  
22 Some are more readily accessible than others. You have to

1 go to the Library of Congress for things like the annual  
2 reports of the chief inspector of factories from Great Britain,  
3 the old ones.

4 Q. How many of these articles pertain to insulation  
5 workers as opposed to factory workers or mine workers?

6 A. I would say about two dozen, before 1964.

7 Q. Pertain to --

8 A. Insulation workers. That's just a guess.

9 Q. Could you identify those?

10 A. Sure. Number 28, --

11 Q. This is all on Exhibit 3?

12 A. Yes.

13 Q. Okay.

14 A. Number 32, 34, 35, 48, 57, 58; and I guess when I  
15 say "insulators" I mean at least in the case of 57 this was  
16 a guy who handled asbestos at a chemical plant and it is not  
17 discussed in any detail.

18 Q. 57?

19 A. Yes.

20 Q. Or 58? Which one are you talking about?

21 A. 57. So I think it might be --

22 Q. The British -- Britain Journal of Tuberculosis?

1 Is that the one you are talking about?

2 A Yes.

3 Q Okay.

4 A These are product users that I am going to be  
5 listing. And almost all of them are identifiable as insula-  
6 tors from the documents themselves.

7 To continue; 58, 60, 64, 69.

8 70 refers to disease in insulators although the  
9 cases reported by Homburger, H-o-m-b-u-r-g-e-r, were not  
10 insulators. He has a table of earlier reports.

11 73, 77, 79, 81, 83, 88; 89 is not explicit about  
12 insulators but it suggests to me that insulators were  
13 considered.

14 96, 98. 100 and 101 are the same article. They  
15 deal with an insulator -- it deals with an insulator.

16 Q 101; is that the translation of 100?

17 A Yes.

18 Q Is it a complete translation or just excerpts?

19 A A complete translation.

20 Q Do you know when it was translated?

21 A It says on the copies it is a certified trans-  
22 lation done by some place here in Washington.

1 Q When?

2 A I think two years ago.

3 Q Two years ago?

4 A One or two years ago.

5 Q To your knowledge was it translated prior to that?

6 A I don't know of any translations prior to that or  
7 I would have obtained them rather than having it done at that  
8 time.

9 Q Okay.

10 A 103 is in conjunction with the tests of insula-  
11 tion material on animals.

12 Q Animals?

13 A Animals.

14 105, 108. 109 is an industrial hygiene survey  
15 of a plant where they made the insulation material. That's  
16 not the same as a product user.

17 Q So we are not going to count 109?

18 A No, let's not count 109.

19 Q Okay.

20 A 112, 114, 115, 116, 120.

21 Q Is that a -- This is what? German?

22 A Yes. That is an abstract of a German publication.

1 Q. An abstract?

2 A. Yes.

3 Q. In English?

4 A. In English.

5 Q. When was that published?

6 A. That was published in '54. It's actually a  
7 reprinting of an abstract published in the Bulletin of Hygiene  
8 which appeared in 1942. The original article was in 1940.

9 Q. We wouldn't be too apt to have that in 1940,  
10 however?

11 A. Pardon?

12 Q. We wouldn't be too apt to have that in the United  
13 States in 1940 or '42; would we?

14 A. A lot of German literature was being written  
15 about in the early '40s. For example, Homburger in 1943 was  
16 citing German articles. Even the British Journal, Bulletin  
17 of Hygiene was continuously publishing abstracts of German  
18 articles on asbestosis straight through World War II.

19 Q. Very good intelligence system.

20 A. The scientists were intelligent at least.

21 Q. We are up to 130.

22 A. 130 might say "insulators." It probably does.

1 Q. You are not sure? We'll put a question mark  
2 beside 130.

3 A. Yes, a very small question mark. I'm pretty sure  
4 it says something about product users being at risk.

5 Q. Okay.

6 A. 131, 132, 133, 134, 135, 137.

7 Q. That's a British report; is that right; 137?

8 A. Yes. And I think that just talks about the  
9 hazards of ripping out insulation. You might or might not  
10 count 139

11 Q. Why might I not?

12 A. Well, the article was by some folks at Johns-  
13 Manville, and they said that in the old days people who worked  
14 with insulation worked with almost purely asbestos material  
15 and were known as asbestos workers, but things have now  
16 changed and they don't exactly say, I think that those  
17 people's lives were in danger, and yet the article is about  
18 the health hazards of asbestos to people working with it.

19 Q. Okay; 139. What's next?

20 A. 144. 145 talks about asbestosis in building  
21 demolishers who were stripping asbestos insulation.

22 Q. This was in South Africa?

1           A     This was an international conference held in  
2     South Africa. Number 147, 148, 149, 151, 152, 154, 155, 156,  
3     158, 159, 160, 161, 162, 163, 164, 165, and I think that takes  
4     us up to Selikoff.

5           Q     What?

6           A     That takes us up to Selikoff.

7           Q     Which means --

8           A     1964.

9                   MR. WEINSTEIN: He said previously he thought  
10      there were two dozen before 1964 or '65. Selikoff was in '65.  
11      That's what he means.

12                  THE WITNESS: His first publication was in the  
13      Journal of the American Medical Association in 1964, and the  
14      one that's more commonly discussed in these lawsuits is  
15      Number 179, published in '65, which includes reference to  
16      about a dozen-and-a-half previous reports of asbestosis and  
17      cancer in asbestos product users.

18                  BY MR. BUCHER:

19                  Q     And the articles that you have given us now are  
20      the ones that you would be relying on in your, quote, "state-  
21      of-the-art presentation?"

22                  A     They are not the only ones. They are not the

1 only ones but they are the ones that deal specifically with  
2 insulators. Obviously the literature on asbestosis didn't  
3 develop only with literature on insulators.

4 Q You would recognize the fact that the exposure,  
5 the volume of or the amount of exposure in insulators is  
6 different than that in the mill or in the mine? The factory  
7 setting and mine setting are different from the setting at  
8 a building like this?

9 A Yes.

10 MR. BUCHER: I think that's all.

11 MR. SHORE: Sorry, but I have a couple more now.

12 MR. WIENSTEIN: Go ahead.

13 BY MR. SHORE:

14 Q Mr. Castleman, you mentioned that you had a  
15 researcher. Who all works with you? Who all works with you  
16 in this consulting work?

17 A I hire people on a spot basis. I don't have  
18 full-time employees.

19 Q Okay.

20 A But I do hire people, students and other people  
21 on an occasional basis when I need to just have someone go  
22 and fetch me an article in the medical library in Washington.

1 Q You had mentioned to me, Mr. Castleman, about  
2 other people who work with you in this consulting group and  
3 you were telling me it's basically spot researchers?

4 A Yes. It's not a consultant group. It's just me.  
5 I am the consultant.

6 Q Okay.

7 A And I occasionally hire people for a day or two  
8 of going and getting me things.

9 Q Okay.

10 Now, have you discussed with Dr. Wagoner either  
11 one of you testifying at these trials in Texas?

12 A No. He just heard -- He did give me a call. He  
13 did give me a call yesterday and said, "What's with Baron?  
14 He just called me this week and he wants me for these three  
15 cases. Did he give you any better notice than he gave me?"  
16 And then I told Dr. Wagoner that I had in fact been contacted --

17 Q Okay.

18 A Somewhat more in advance about it.

19 Q So it's your understanding that Dr. Wagoner was  
20 just recently contacted, say, within the last week or 10 days?

21 A Yes.

22 Q Okay. Did you discuss what your testimony would

1 be at trial if you were to testify?

2 A No.

3 Q Okay.

4 You testified just a little while ago that you  
5 just received this Defendants' Exhibit Number 4, The Industrial  
6 Bulletin, which was printed in April, 1934; correct?

7 A Yes.

8 Q So obviously your research wasn't quite thorough  
9 enough in gathering all these documents; right? Or, these are  
10 some of the documents that you referred to that you just  
11 couldn't get to.

12 A These are documents that aren't certified in the  
13 medical literature. The medical literature is easier to search  
14 because if you search it thoroughly enough you will see that  
15 just about everything that was written -- even the Fleischer  
16 article is cited someplace by somebody else.

17 Q Okay.

18 How about Exhibit 5? That looks like it came out  
19 of some sort of medical material.

20 A The New England Journal of Medicine. I had  
21 somehow missed this one and I don't know how, but there it is  
22 in the New England Journal which is a widely-distributed

1       medical journal, and it clearly states that this individual  
2       had severe asbestosis and mesothelioma. And his work con-  
3       sisted in cutting asbestos insulating board.

4           Q       Are you aware that the cases which Mr. Baron  
5       contacted you about testifying on involve insulators as  
6       opposed to plant workers?

7           A       Yes, I am aware of that.

8           Q       Will that change in any way the articles which  
9       you recommend to him to be presented at trial?

10          A       Well, I don't usually make recommendations to  
11       Mr. Baron as to which articles to present in trial. He is  
12       fairly familiar with a lot of these articles and I have worked  
13       with him enough times in the past that I don't tell him how  
14       to put on his case. He is a competent professional in the  
15       field of law and he decides what he wants to put before the  
16       jury.

17          Q       Okay.

18              Just a couple other questions:

19              You made a distinction between medical knowledge,  
20       or an apparent distinction between medical knowledge and  
21       industry knowledge awhile ago when you referred simply to  
22       medical knowledge.

1 A What's your question?

2 Q Is that correct?

3 A Well, there is knowledge that originates in  
4 medical journals and then there is knowledge that's found which  
5 are not medical journals, like this industrial bulletin.

6 Q Okay.

7 Well, do you purport to be an expert in gathering  
8 the medical knowledge or the industry knowledge, what you feel  
9 to be the medical knowledge or industry knowledge?

10 A I consider myself expert in presenting what was  
11 known about the hazards of asbestos disease in primarily medi-  
12 cal literature, but also quite a few other sources which bear  
13 upon the availability of the knowledge.

14 Q Mr. Castelman, are you familiar with any epidemi-  
15 ological studies with respect to exposure of insulation  
16 workers to asbestos products prior to the Selikoff report  
17 in 1965?

18 A Yes.

19 Q Okay. Have we covered those in this list that  
20 you have given us?

21 A Yes; I think so.

22 Q Not all of these are epidemiological studies?

1 A No.

2 Q How many out of that are the studies?

3 A Maybe five or so.

4 Q Could you quickly point to those?

5 A Sure.

6 Fleischer is the first, Number 77 and then Number  
7 96 is an epidemiological study.

8 Number 116 is a study of asbestos exposed popula-  
9 tion, including steam fitters, boilermakers, and asbestos  
10 workers. I believe those are the people that were in the  
11 category of asbestos-exposed occupations in that study.

12 That is an epidemiological study on cancer  
13 incidence.

14 132, 135; I think that's about it.

15 Q Is it your testimony that these studies would  
16 show that asbestos workers were at risk, insulation workers  
17 were at risk?

18 A Yes; those studies show that.

19 MR. SHORE: Okay. Thank you, sir.

20 MR. BUCHER: One more question.

21 BY MR. BUCHER:

22 Q Do you have any animosity towards manufacturers

1 of asbestos products?

2 A No.

3 Q I have an article that you were the author of;  
4 "The Development of Knowledge About Asbestos Disease."

5 A Yes.

6 Q Published in February of 1977.

7 A Yes.

8 Q The last -- The last sentence appearing on  
9 page 85 of that presentation is; "This is only one recent  
10 example of the asbestos industry's refusal to accept the  
11 decline in sales to protect the health of its customers."

12 A That's a factual statement.

13 Q And what is the basis for that?

14 A The basis for that was that -- I am talking there  
15 about drywall spackling compounds; aren't I?

16 Q Among other things; yes.

17 A Well, Selikoff had shown in an article published  
18 in Science Magazine that people were heavily exposed to asbestos from mixing, sanding, and sweeping up after using these  
19 compounds inside of buildings. Only one-third of the products  
20 on the market appeared to employ asbestos in them. So it was  
21 replaced.

1 Q. What year are we talking about now? Was this '77?

2 A. 1977.

3 Q. Okay.

4 A. And the trade association for the industry  
5 adamantly refused to concede that this was an unsafe and  
6 unwarranted use of asbestos in a consumer product.

7 Q. Well, if one of the defendants was not using  
8 asbestos in any of its products that it sold to the public  
9 in 1977, then this would not apply to them; is that correct?

10 A. Well, it applied to the asbestos companies --

11 Q. That were --

12 A. -- that were involved in the sale of asbestos or  
13 use of asbestos.

14 Q. In 1977?

15 A. Yes.

16 MR. BUCHER: I have nothing further.

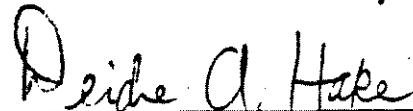
17 MR. WEINSTEIN: All right.

18 (Whereupon, at 12:00 noon, the above-entitled  
19 deposition adjourned.)

20 (By stipulation of counsel,  
21 with the consent of the  
22 witness, reading and signa-  
ture waived.)

1 CERTIFICATE OF NOTARY PUBLIC

2 I, Deidre A. Hake, the officer before whom the  
3 foregoing deposition was taken, do hereby certify that the  
4 witness whose testimony appears in the foregoing deposition  
5 was duly sworn by me; that the testimony of said witness was  
6 taken by me in shorthand and thereafter reduced to typewriting  
7 under my direction; that said deposition is a true record of  
8 the testimony given by said witness; that I am neither counsel  
9 for, related to, nor employed by any of the parties to the  
10 action in which this deposition was taken; and, further, that  
11 I am not a relative or employee of any attorney or counsel  
12 employed by the parties hereto, nor financially or otherwise  
13 interested in the outcome of the action.

14   
15 Deidre A. Hake

16 Deidre A. Hake  
17 Notary Public in and for  
18 the District of Columbia

19  
20 My commission expires  
21 July 31, 1987.  
22